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इस भाग में भिन्न पृष्ठ संख्या वी जावी है जिससे इक यह नलग संकलन की काप में
रख जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—बाट 3—उप-बाट (iii)
PART II—Section 3—Sub-section (iii)

(संघ राज्य क्षेत्र प्रशासनों को छोड़कर) केन्द्रीय अधिकारियों द्वारा जारी किए गए आदेश और अधिसूचनाएं
Orders and Notifications issued by Central Authorities (other than Administrations of Union
Territories)

भारत निर्वाचन आयोग

नई दिल्ली, 26 जून, 1990

ELECTION COMMISSION OF INDIA

New Delhi, the 26th June, 1990

बा. अ. 34.—लोक प्रतिनिधित्व अधिनियम, 1950 (1950
का 43) वी वार्ष 1950 वी जानवारा (1) द्वारा प्रकाश पालियों
का प्रयोग करते हुए, भारत निर्वाचन आयोग, मणिपुर सरकार के परामर्श
में श्री डॉ. एम. याम्बा, आई. ए. एस. के स्थान पर श्री जर्नल सिंह, आई. ए. एस. आयुक्त (विजली/योजना) को उनके कार्यभार
मम्भासने की तारीख से अगले आदेशों तक भण्डार राज्य के मुख्य
निर्वाचन अधिकारी के रूप में एतद्वारा नामनिर्दिष्ट करता है।

म. 154/मणिपुर/90

आदेश से,
के पी जी. कट्टी, सचिव

O.N. 34.—In exercise of the powers conferred by sub-section (1) of section 13A of the Representation of the People Act, 1950 (43 of 1950), the Election Commission of India, in consultation with the Government of Manipur hereby nominates Shri Jarnail Singh, IAS, Commissioner (Power/Planning) Government of Manipur, as the Chief Electoral Officer for the State of Manipur with effect from the date he takes over charge and until further orders vice Shri B. S. Lamba, IAS.

[No. 154/MR/90]

By Order,

K. P. G. KUTTY, Secy.

जारी

नई दिल्ली, 6 जून 1990

श्र. अ. 35 --निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में यथा विनिर्दिष्ट लोक सभा के निर्वाचित के लिए जो स्तम्भ (3) में विनिर्दिष्ट निर्वाचन-सेवा से हुआ है, स्तम्भ (4) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ते थाला प्रत्येक अधिकारी, जोका प्रतिनिधित्व अधिनियम, 1951 तथा तदीन वराण गए नियमों द्वारा अपेक्षित उक्त सारणी के स्तम्भ (5) में यथा वर्णित अपने निर्वाचन अधिकारी का नेतृत्व दर्शित करने में असफल रहा है;

और उक्त अधिकारी ने सम्पूर्ण भूमिका किए जाने पर भी उक्त असफलता के लिए या तो कोई कारण अथवा स्पष्टीकरण नहीं दिया है, निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या व्यापोकित्य नहीं है;

प्रत्येक निर्वाचित आयोग उक्त अधिनियम की शारा 10-के अनुसरण में नीचे की सारणी के स्तम्भ (4) में विनिर्दिष्ट अधिकारी को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य बने जाने और होने के लिए आवेदन की तरीके में तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

सारणी

क्र. सं. निर्वाचन का विवरण	मंसदीय निर्वाचित लोक सभा की निर्वाचित सदने वाले अधिकारी का नाम और निरहित का कारण
	क्र. सं. और नाम पता

1. केरल राज्य से लोक सभा के लिए 7--पालाशाट माध्यमिक निर्वाचन 1980	श्री कावस्सेरी संकरन, सुपुत्र कोण्ठ मुठालाकुलम नगरिजन कालोनी, पो. आ. कावस्सेरी।	व्या विल्कुल -वापिल नहीं किया।
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2. --वही--	8--ओटापालम (अ. जा.)	श्री भानी सुपुत्र श्री बेलुमुषान म. नं. 2/208, शीलुर पंचायत, पो. आ. बिलुर तालुक	--वही--
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3. --वही--	--वही--	श्री अप्पुमी सी. पी. क.जीयीकीपुराइल (हाउस) पो. आ. काजीयीकी वाया पेरिगोडे।	--वही--
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[स. 76/केरल/90]

आदेश से,

मी. एम. रोबे, गवर्नर

ORDER

New Delhi, the 6th July, 1990

O.N. 35.—Whereas the Election Commission is satisfied that the contesting candidates specified in column (4) of the Table below at the election to the House of the People specified in column (2) and held from the constituency specified in column (3) against their name have not lodged the account at all as shown in column (5) of the said Table, as required by the Representation of the People Act, 1951 and the Rules made thereunder;

And, whereas, the said candidates have not furnished any reason or explanation for the said failure even after due notice, the Election Commission is satisfied that they have no good reason or justification for the said failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the persons specified in column (4) of the Table below to be disqualified for being chosen as and for being, a member of either House of the Parliament or the Legislative Assembly or Legislative Council of a State for a period of 3 years from the date of this order.

TABLE

S. No.	Particulars of election	S. No. and name of constituency	Name of contesting candidates	Reasons for disqualification
1	2	3	4	5
1.	General Election to the House of the People, 1989 from Kerala State.	7-Palghat	Shri Kavasseri Sankaran, S/o Koppan, Muthalakulam Harijan Colony, P.O. Kavassery.	Account not lodged at all.
2.	—do—	8-Ottappalam (SC)	Shri Maani, S/o Velayudhan. House No. 2/208, Ayilur Panchayat, Ayilur (P.O.) Chittur Taluk.	—do—
3.	—do—	—do—	Shri Appunni, C.P. Chazhiyittipurayil (House) P.O. Chazhiyattiri Viz., Peringode.	—do—

[No. 76/KL/90]
By Order,
C.L. ROSE, Secy.

प्रादेश

नई दिल्ली, 9 जुलाई, 1990

शा. अ. 361—निर्वाचन आयोग का सम्बाद हो गया है कि नीचे की सारणी के स्तम्भ (2) में यथा विनिरिप्ट पंजाब राज्य से लोक सभा के निर्वाचन के लिए जो स्तम्भ (3) में विनिरिप्ट निर्वाचन-क्षेत्र से हुआ है, स्तम्भ (4) में उक्ते सभामें विनिरिप्ट निर्वाचन सहने वाला प्रत्येक अधिकारी, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तदीन बनाए गए नियमों द्वारा अधिकृत उक्त सारणी के स्तम्भ (5) में यथा दर्शित अपने निर्वाचन व्ययों का कोई भी नेत्रा वापिस करने में असफल रहा है।

और उक्त अधिकारी ने अस्थू सुवान दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण अवाक्य अप्टीकरण नहीं दिया है या उनके द्वारा दिए गए अस्थावेदन पर, यदि कोई ही, विचार करने पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई विधिमाला द्वारा न्यायीकरित नहीं है।

इतः इब्ब निर्वाचन आयोग उक्त अधिनियम की धारा 10-के अनुदरण में नीचे की सारणी के स्तम्भ (4) में विनिरिप्ट अधिकारी का संनद के किसी भी सदन के या किसी राज्य/संघ राज्य क्षेत्र की विधान सभा अव्यावधान समाधान परियोग के स्तम्भ चुने जाने और होने के लिए अवैध की तरीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

सारणी

क्र. सं.	निर्वाचन का विवरण	निर्वाचन क्षेत्र की अ. सं. और नाम	निर्वाचन लड़ने वाले अधिकारी का नाम और पता	निर्दृश्यता का कारण
1	2	3	4	5
1.	लोक सभा के लिए साधारण निर्वाचन, 1989	10—मण्डल संसदीय निर्वाचन-क्षेत्र	श्री अमृतवन गांद व पोस्ट लाजनी तहसील मुरादाबाद, जिला संग्राम	निर्वाचन व्ययों का कोई भी लेखा दाखिल करने में असफल।
2.	—वही—	2—अमृतसर संसदीय निर्वाचन क्षेत्र	श्रीमती करतार कांठ, म. नं. 3150, नई आवादी फैजपुरा चौक रत्न सिंह, अमृतसर	—वही—
3.	—वही—	—वही—	श्री बलदहर राय, गोद-मोहकमपुरा, पो. शा. तुंगपाई, जिला अमृतसर।	—वही—
4.	—वही—	—वही—	श्री मोहिन्दर सिंह, 90, अजीत नगर, अमृतसर।	—वही—
5.	—वही—	—वही—	श्री माधो सिंह, गाँधी मोहकमपुरा, पो. शा. तुंगपाई, अमृतसर।	—वही—
6.	—वही—	—वही—	क. शने सचमन सिंह, 104, राजी कल बाग, अमृतसर।	—वही—

[म. 76/पंजाब—नो. म./90 (1) 3540]

आवेदन से,
असवान द्वारा, सचिव

ORDER

New Delhi, the 9th July, 1990

O.N. 36.—Whereas the Election Commission is satisfied that each of the contesting candidates specified in column (4) of the Table below at the election to the House of the People from State of Punjab as specified in column (2) and held from the constituency specified in column (3) against his name has failed to lodge any account of election expenses as shown in column (5) of the said Table as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas the said candidates have either nor furnished any reason or explanation for the said failure even after due notice or the Election Commission, after considering the representations made by them, if any, is satisfied that they have no good reason or justification for the said failure;

Now, therefore, in pursuance of section 10A of the said act, the Election Commission hereby declares the person specified in column (4) of the Table below to be disqualified for being chosen as, and for being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of State/Union Territory for a period of 3 years from the date of this order;

TABLE

S. No.	Particulars of election	S. No. & name of Constituency	Name & Address of the Candidate	Reason for disqualification
1	2	3	4	5
1.	General Election to the House of the People, 1989	10-Sangrur Parliamentary Constituency	Shri Amritron Village & P.O. Chajali Tehsil Sunam Dist. Sangrur.	Failed to lodge any account of Election Expenses.
2.	—do—	2-Amritsar Parliamentary Constituency	Smt. Kartar Kaur H. No. 6180, Navi Abadi, Faiz Pura, Chowk Rattan Singh, Amritsar.	—do—
3.	—do—	—do—	Shri Balwant Rai, Village Mohakmpura, P.O. Tung Pai, Dist. Amritsar.	—do—
4.	—do—	—do—	Shri Mohinder Singh, 90, Ajit Nagar, Amritsar.	—do—
5.	—do—	—do—	Shri Madho Singh, Village Mohakmpura, P.O. Tung Pai, Amritsar.	—do—
6.	—do—	—do—	Captain Lachhman Singh, 104, Rani Ka Bagh, Amritsar.	—do—

[No. 76-PB-HP/90(1)/3540]

By Order,

BALWANT SINGH, Secy.

नई दिल्ली, 12 जूलाई, 1990

New Delhi, the 12th July, 1990

आ. अ. 37.—लोक प्रतिनिधित्व प्रबिधियम, 1951 (1951 का 43) की धारा 106 के भनुसरण में निवाचन आयोग एतद्वारा 1989 की लिवार्पिन पर्जी स.-1 में दिया गया पटना उच्च व्यायालय (पटना) का तारीख 29-1-1990 का प्रायोगिक करता है।

[सं. 82/बिहार/(1/89)/90]

आदेश से,

बाबू राम, अधर सचिव

O.N. 37.—In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the order dated the 29th January, 1990 of the High Court of Judicature at Patna in Election Petition No. 1 of 1989.

[No. 82/BR/(1/89)90]

By Order,

BABU RAM, Under Secy.

IN THE HIGH COURT OF JUDICATURE AT PATNA
ORDER SHEET

Election Petition No. 1 of 1989

SYED SHAHABUDDIN.....

PETITIONER

VERSUS

M.J. AKBAR AND ANOTHER.....

O.Ps.

Serial no. of order	Date of order	Order with signature. Office notes as the action (if any) take on order
1	2	3
4.	29-1-1990.	This is a petition under sections 80A and 81 read with section 100(1)C of the Representation of People Act, 1951 (hereinafter referred to as 'the Act' only) by the petitioner Syed Shahabuddin calling in question the election of M.J. Akbar to the Lok Sabha from 23 Kishanganj Parliamentary constituency in the general election held in November, 1989 on the ground that the petitioner's nomination paper was improperly rejected by the Returning Officer.

It appears that the Election petition was presented before the office on 11-12-1989 and subsequently, filed before the Registrar of the Court on 18-12-1989. The maintainability of the petition has been questioned. The question is whether the Election petition has been legally and properly presented before the High Court in accordance with sections 80 and 81 of the Act.

The learned Counsel for the petitioner has submitted that 'since no Judge was assigned by the Hon'ble the Chief Justice to exercise the jurisdiction of the High Court to hear and dispose of the Election petition arising out of the General election of the Lok Sabha (Parliament) held in the year 1989 till the date of the filing of the Election petition, the same was filed before the Registrar of the Court under Chapter III of the Patna High Court Rules (hereinafter to be referred to as 'the Rules'), who in absence of the Judge was competent to receive the petition.'

Section 81 of the Act deals with the presentation of the petition which runs as follows :

"An Election petition calling in question any election may be presented on one or more of the grounds specified in sub-section (i) of Section

100 and Section 100(1) to the High Court by any candidate at any such election or any election within 45 days from, not earlier than, the date of election of the returned candidate, or if there are more than one returned candidate at the election and the dates of their election are different, the later of those two dates.....”

It is thus, obvious that the presentation of petition should be before the High Court.

The constitution of “High Court” has been defined in Article 216 of the Constitution of India which states that “Every High Court shall consist of a Chief Justice and such other Judges as the President may from time to time deem it necessary to appoint”. This clearly indicates that the “High Court” does not include the Registrar, who is at best an officer of the Court.

Chapter XXI-E of the Patna High Court Rules, which has been framed in conformity with the Act, lays down the Rules for the disposal of Election Petitions filed under section 81 of the Act i.e. the presentation of Petitions under Rule 1(c) “the Court” shall mean the High Court of Judicature at Patna and under 1(d) “the Judge” shall mean the Judge or Judges of the High Court who, from time to time, have been assigned by the Chief Justice under sub-section (2) of section 18A of the Representation of the People Act, 1951 for exercising the jurisdiction of the High Court under sub-section (1) of section 80A of the Act.

Rules 6 of Chapter XXI-E provides the forum for presentation of the Election petition by any candidate at such election or any elector, which runs as follows :

“Subject always to the order of the Judge, before a formal presentation of the Election Petition is made to the Judge in open Court, it shall be presented to the Stamp Reporter of the Court, who shall certify thereon if it is in time and in conformity with the requirements of the Act and the Rules in this behalf, or is defective and shall thereafter return the petition to the petitioner for making the formal presentation after removing the defects, if any:

Provided that if on any court day the Judge is not available on account of temporary absence or otherwise, the petition may be presented before the Bench hearing civil application and motions.”

As stated above, the present Election petition was presented before the office/stamp Reporter on 11-12-89 and subsequently, filed before the Registrar of the Court on 18.12.1989 it is true that no Judge was assigned by Hon’ble the Chief Justice to exercise the jurisdiction of the High Court to hear and dispose of the Election petition arising out of the General Election of the Lok Sabha (Parliament) held in the year 1989 on or before the filing of the present petition. In the daily list of the High Court dated 8th of January, 1990 it was notified that Hon’ble the Chief Justice assigned this Court to exercise the jurisdiction of the High Court, but on the date of filing the petition, i.e. on 18-12-1989, the Bench bearing civil applications and motions was available. The Election petition was not presented before that

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Bench in absence of the Judge and that having not been done, the petition must be held to have not been filed before the appropriate forum as provided under section 81 of the Act and Rule 6 of Chapter XXI-E of the High Court Rules. That being the position, filing of the petition before the Registrar of the Court cannot be treated to be a valid one. The Petitioner in the circumstances, cannot resort to the provisions of Chapter III of the High Court Rules to be the appropriate forum to file the petition.

The result is, that there was no proper presentation of the petition in the eye of law and accordingly, the present Election petition must be held to be not maintainable. I need not consider the other objections raised by the office, in view of my finding that the Election petition has not been properly presented.

S.C. MOOKHERJEE

